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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,239	04/06/2004	Darrell K. Thompson	A3,106	7477

7590 11/15/2004

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EXAMINER

PATEL, NIHIR B

ART UNIT PAPER NUMBER

3743

DATE MAILED: 11/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/820,239	Applicant(s) THOMPSON ET AL.	
	Examiner Nihir Patel	Art Unit 3743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 4, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frimberger US Patent No. 3,822,860 in view of Lea US Patent No. 3,046,978. Referring to claims 1, 3, 4, 6 and 7, Frimberger discloses the applicant's invention as claimed with the exception of providing target indicia on the self-inflating bag to indicate the proper position of the self-inflating bag on the patient's sternum area and to indicate the proper location on the self-inflating bag for applying force to the topside of the self-inflating bag.

Lea discloses a manually operated resuscitator that provides target indicia on the self-inflating bag (see figure 1) to indicate the proper position of the self-inflating bag on the patient's sternum area and to indicate the proper location on the self-inflating bag for applying force to the topside of the self-inflating bag. Therefore it would have been obvious to modify Frimberger's invention by providing target indicia on the self-inflating bag to indicate the proper position of the self-inflating bag on the patient's sternum area and to indicate the proper location on the self-inflating bag for applying force to the topside of the self-inflating bag in order to provide proper amount of force to the self-inflating bag.

Claims 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frimberger US Patent No. 3,882,860 in view of Coates et al. US Patent No. 5,996,579. Referring

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to claim 5 and 7, Frimberger discloses the applicant's invention as claimed with the exception of providing self-inflating bag that includes a pharmaceutical composition. Coates discloses a bag-valve mask resuscitator attachment that provides self-inflating bag that includes a pharmaceutical composition. Therefore it would have been obvious to modify Frimberger's invention by providing self-inflating bag that includes a pharmaceutical composition in order for the medication to take effect more quickly.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Frimberger US Patent No. 3,882,860. In reference to claim 2, the applicant claims a target indicia that includes a bottom target indicia on the bottom side of the self-inflating bag to indicate the proper position of the self-inflating bag on the patient's sternum area. It is not necessary to provide target indicia on both top and bottom of the self-inflating bag. As long as there are indicia located either on top (see Lea US Patent No. 3,046,978) or bottom of the self-inflating bag it is good enough to indicate the proper position of the self-inflating bag on the patient's sternum area. Therefore it is considered a simply a matter of design choice to either have the target indicia located on top or bottom surface of the self-inflating bag.

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Nihir Patel whose telephone number is (703) 306-3463. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:30 pm. If attempts to reach the examiner by telephone are unsuccessful the examiner supervisor Henry Bennett can be reached at (703) 308-0101.

NP
November 8th, 2004

Henry Bennett
Supervisory Patent Examiner
(703) 308-0101

